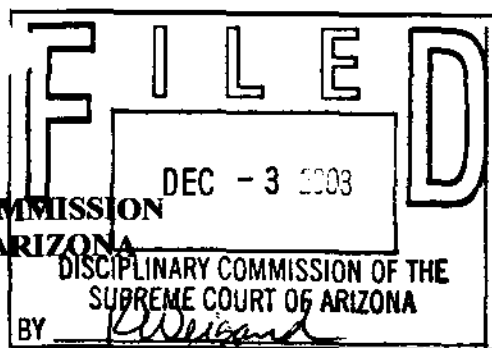


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3 **BEFORE THE DISCIPLINARY COMMISSION**
4 **OF THE SUPREME COURT OF ARIZONA**



5 IN THE MATTER OF A SUSPENDED MEMBER)
6 OF THE STATE BAR OF ARIZONA,)

Nos. 02-1649, 02-1949, 03-0058,
03-0217

7 **DAVID W. COUNCE,**)
8 **Bar No. 010822**)

DISCIPLINARY COMMISSION
REPORT

9 **RESPONDENT.**)
10)
11)
12)
13)
14)

15 This matter came before the Disciplinary Commission of the Supreme Court of
16 Arizona on November 8, 2003, pursuant to Rule 53(d), Ariz. R. S. Ct., for consideration of
17 the Hearing Officer's Report, filed August 4, 2003, recommending disbarment and costs of
18 these disciplinary proceedings. Respondent did not participate in these proceedings.

19 **Decision**

20 The Commission's standard of review is set forth in Rule 53(d)2, which states that
21 the Commission reviews questions of law *de novo*. In reviewing findings of fact made by a
22 hearing officer, the Commission applies a clearly erroneous standard.

23 Having found no findings of fact clearly erroneous, the nine¹ members of the
24 Commission unanimously recommend adopting and incorporating by reference the Hearing
25 Officer's findings of fact, conclusions of law, and recommendation for disbarment and costs.
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¹ Commissioner Gutierrez did not participate in these proceedings. One public seat remains vacant. Maria Hoffman, a former commissioner and public member from Tucson and Helen Purcell, a public member from Tucson, participated as ad hoc members.

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RESPECTFULLY SUBMITTED this 3rd day of December 2003.



Jessica G. Funkhouser, Chair
Disciplinary Commission

Original filed with the Disciplinary Clerk
this 3rd day of December 2003.

Copy of the foregoing mailed
this 3rd day of December 2003 to:

Patricia E. Nolan
Hearing Officer 7Y
2702 N. 3rd Street, Suite 3000
Phoenix, AZ 85004-4607

David W. Counce
Respondent
15201 N. 19th Way
Phoenix, AZ 85022-0001

Copy of the foregoing hand-delivered
this 3rd day of December 2003 to:

Shauna R. Miller
Senior Bar Counsel
State Bar of Arizona
111 West Monroe, Suite 1800
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By K. Weigand

/kdl